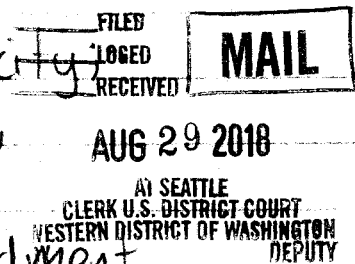


In the U.S. District Court for the District of Washington  
 state of Washington; state of New York  
 state of Connecticut; state of New Jersey  
 state of Oregon; Common wealth of  
 Massachusetts; Commonwealth of  
 Pennsylvania and District of Columbia  
 VS

Case no  
 2:18-CV-01115  
 Leave to file as  
 Amicus Curiae

United States Department of State;  
 Michael R Pompeo in his official capacity;  
 Directorate of defense trade controls;  
 Mike Miller in his official capacity;  
 Defense Distributed; second amendment  
 foundation; Conn Williamson



Appears now as friend of the Court, Benjamin Barber, an Oregon resident, to seek leave to file Amicus Curiae. Petitioner is principal of "Nerd Party" an Oregon non profit, and he seeks third party standing pursuant to first amendment jurisprudence, to bring to the Courts attention his and others rights pursuant to 17 USC § 106, 201, 47 USC § 230 as applied under the first Amendment.

"As a corollary the court has altered its traditional rules of standing to permit -- in the First Amendment area -- ... no requirement that the person making the attack demonstrate that his own conduct could not be regulated"

Broadrick v. Oklahoma 413 US 601, 612, 93 Sct 2908, 2916

Date 08/24/2018

Ben Barber

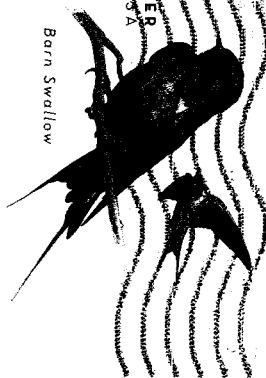
NAME Benjamin Barber  
WASHINGTON COUNTY JAIL  
215 S.W. ADAMS MS35  
HILLSBORO, OREGON 97123-3874  
BOOKING # 17-07936

United States Courthouse

700 Stewart St  
Seattle, WA 98101-1277

PORTLAND OR 972

27 AUG 2018 PM 7 FOREVER  
USA

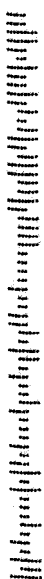


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AT SEATTLE  
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WESTERN DISTRICT OF WASHINGTON  
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98101-443889



In the U.S. District Court for the District of Washington  
State of Washington, et al

VS

U.S. Department of State, et al

Case no 2:18-CV-01115

Amicus Curiae Brief

Benjamin Barber, as friend of the Court, asks the Court to protect the 1<sup>st</sup> Amendment, 2nd Amendment and US Copyrights of Defense Distributed and MR Williamson. Further asks the court to not Compel the United States defendants to either enforce their laws or rules on behalf of the plaintiffs, nor be compelled to enforce or protect state laws from federal preemption by Federal laws 17 USC § 201, 47 USC § 230.

The gist of the United States Counsel arguments in the prior adjudication in which the United States appeared as a plaintiff and Defense Distributed was a defendant, was that there was insufficient expressive content in the files to qualify for first amendment protection, which I take exception of because as the court in United States v Stevens 559 US 460 held:

"Miller did not determine that serious value could be used as a general precondition to protecting other types of speech in the first place. Even 'wholly neutral' utilities... come under the protection of free speech"

And even if we accept the position as true, the speech would be protected by 17 USC § 201, which protects the rights of an author of a work from having his rights

involuntarily "purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright" because "no action" "shall be given effect" under 17 USC § 201(e).

See H.R. Rep. No. 1476 at 124 (1976) (discussing 17 USC § 201(e).)

Moreover once someone else has the files in question, they are provided immunity for both civil and criminal state laws pursuant to 47 USC § 230. See *Backpage v. McKenna* 881 F. Supp. 2d 1262, 1272; *Betzel v. Smith* 333 F.3d 1018, 1031. So at this point it seems that the relief requested is moot.

Moreover it seems like the previous litigation by the United States defendants and defense distributed has already bound the government under *Res Judicata*, and the plaintiffs would need to set aside judgement in the original case and not try to collaterally attack the original case, then they may be able to seek intervenor status and press their claim.

Additionally it seems unlikely that the plaintiffs have standing to assert a ripe controversy, or an exercise in jurisdiction. At this phase the harm to the plaintiffs is too speculative, and would essentially serve as an advisory opinion, moreover the defendant defense distributed neither "purposely direct[s] his activities" at the plaintiffs state. *Schwarzenegger v. Fred Martin Motor Co* 374 F.3d 797, 802-803 nor did it avail itself "of conducting activities in the state nor is the 'brunt' of the harm in the state" *Corevent Corp v Nobel Indus AB* 11 F.3d 1482, 1486

merely publishing blueprints is not the proximate cause of the harm the state plaintiffs seek to enjoin. They would need to pursue those with felonies in possession of the product of the blueprint, just as the publication of the instructions of how to grow coca leaves or marijuana do not attach liability to the harm of persons unlawfully producing drugs.

However there are people who are licensed to produce lawful marijuana and similarly may lawfully create their own weapon, so it does not follow that the defendant intends to aid and abett an unlawful purpose any more than crow bar. crow bar manufacturer aids and abets burglaries, for example I can lawfully produce a firearm.

Even the unlawful devices in the book "The Anarchist Cookbook" are not sufficient to abridge the 1<sup>st</sup> Amendment right to publish, read, or distribute that book. The first Amendment protects the right to download defense distributed's work as much as it does their right to publish them  
Brown v Entertainment Merchants Association 131 Sct 2729, 2733

The plaintiffs also cannot establish standing to force the united states defendants to exercise their own discretion in the performance of their duties, nor is there any duty owed by the defendants to the plaintiffs. Schmier v U.S. Court of Appeals for the Ninth Circuit 279 F3d 817, 822. Nor can they be ordered to infringe on Constitutional rights of third parties, which should go without saying

Ultimately the internet is one that demands national treatment *ACLU v Johnson* 194 F3d, 1149, 1161-1162. Also the right to download these designs anonymously is protected by the first Amendment *Doe v. 2TheMart.Com Inc* 140 FSupp.2d 1088, 1092, 1097. while the plaintiffs have the right to regulate within their own borders the possession of unregistered weapons, they cannot compel the defendants to restrain everyone from doing so outside their borders.

while the spectre of interpersonal violence is real, I have myself been shot in the eye by negligence, the threat of predation on an unarmed populace is more statistically threatening as the Afro-Americans in pre civil war America can attest, to the many government sponsored democides of the 20<sup>th</sup> century can also attest (eg Stalin, Mao, Pol-Pot)

This is why the second Amendment provides an individual right to bear arms, it is the tool of last resort to protect natural rights from those who will not recognize your legal ones, whether it be King George or a hungry bear. while it's nice to be utopian and advocate for disarmament, those utopian societies spilled the most blood in search for removing the obstacles to their utopia - the people.

The Director of National Intelligence global trends report indicates this period of peace and prosperity may only last as long as the resources will, and when resources run out we may not have the luxury of government to keep the peace and safety, especially if ran by demagogues.